

IN THE MATTER OF THE DEFERRAL)
OR WAIVER OF COURT FEES)

AMENDED
ADMINISTRATIVE ORDER
No. 2002-119

(Amended to remove incorrect language
in introduction of attached protocol)

WHEREAS, the Court Institution is committed to due process regardless of a party's ability to pay fees, and;

WHEREAS, Arizona law (A.R.S. § 12-302) authorizes the Court to grant a deferral or waiver of fees under specific circumstances, and;

WHEREAS, the Court has an obligation to administer this law uniformly and in a way that protects the interests of all citizens of the County;

THEREFORE, IT IS ORDERED that the attached protocol is adopted for use by all personnel involved in the deferral/waiver process in this Court.

This Order is effective January 1, 2003.

DONE IN OPEN COURT this 3rd day of January, 2003.

Honorable Colin F. Campbell
Presiding Judge

Original: Clerk of the Superior Court

Copies: Hon. Mark Armstrong, Associate Presiding Judge
Hon. Edward Burke, Civil Department Presiding Judge
Hon. Linda Scott, Juvenile Department Presiding Judge
Hon. M. Jean Hoag, Southeast Facility Presiding Judge
Hon. Norman Davis, Northwest Facility Presiding Judge
Hon. Barbara Mundell, Probate/Mental Department Presiding Judge
Hon. Michael K. Jeanes, Clerk of the Superior Court
Gordon Griller, Trial Courts Administrator, Maricopa County
Marcus Reinkensmeyer, Superior Court Administrator, Maricopa County
Gordon Mulleneaux, Associate Clerk, Clerk of Superior Court
Phillip Knox, Family Court Administrator
Karen Westover, Civil Court Administrator
Marylou Strehle, Southeast Facility Court Administrator
Diana Clarke, Probate/Mental Health Court Administrator
Ann Marie Crawford, Northwest Facility Court Administrator
Bob James, Judicial Services Administrator

Protocol for the Processing of Requests to Defer/Waive Court Fees

Introduction

The following protocol establishes a multi-tiered framework for objectively determining the eligibility of a litigant who requests a deferral and/or waiver of court fees. This methodology is designed to be used by court or Clerk staff appointed as Special Commissioners for the specific purpose of ruling on such requests. This protocol serves as more specific clarification of the statutory process described in A.R.S. § 12-302.

Requests for Deferral/Waiver of Court Fees

- I. Upon the submission of the court-approved application for deferral/waiver of court fees, and affirmation by the litigant that all information contained within is accurate under penalty of perjury, the Special Commissioner shall examine the application for information regarding the income and expenses of the litigant, as well as any reference to the litigant's participation in a government assistance program.
 - A. If any part of the application is incomplete which hinders the ability of the Special Commissioner to properly analyze the litigant's financial situation, the Special Commissioner shall require the litigant to complete the application. If the litigant chooses to not complete the application, the request to defer/waive shall not be heard, and no review shall be granted.
- II. After examining the relevant financial information received within the application for deferral/waiver of court fees, the Special Commissioner shall determine which of the following tiers is most applicable given the litigant's financial circumstances.
 - A. Tier 1 – Code DEFW
 1. *Eligibility Attributes*
 - a. Proof of current enrollment (an award/eligibility letter or verification card) in one or more of the following programs:
 - the U. S. TANF Program,
 - the U. S. Food Stamp Program,
 - the Supplement Security Income (SSI, SSD) Program,
 - the State of Arizona General Assistance Program,
 - b. Income is 150% or less of the current U.S. Federal Poverty Guidelines
 - c. Represented by Community Legal Services

2. *Payment Requirements*

- a. Deferral is granted until the end of the case, with no payment required at time of application.
- b. To request a payment plan or waiver of relevant fees at end of case, litigants must file a supplemental application at the court location where the case was originally filed or mail the application to the downtown office.
- c. Judicial Officers of the Court shall, at the end of the case, based on the application filed make a determination about the payment or waiver of court fees.
- d. If no supplemental application is filed (under II. A. 2. a.), a letter is to be sent to the litigant stating that the relevant fees are due in full within 30 days of receipt or collections activities will be initiated.

3. *Delinquent Account Consequences*

- a. If an account becomes delinquent, it will be transferred to the Maricopa County Collections Unit for further collection efforts.

B. Tier 2 – Code DEF1

1. *Eligibility Attributes*

- a. Income is greater than 150%, but less than 175%, of US Federal Poverty Guidelines.

2. *Payment Requirements*

- a. Payment of no less than \$10 is due at time of filing.
- b. A monthly billing statement will be sent to the litigant requiring no less than \$10 per month due until balance is paid.

3. *Delinquent Account Consequences*

- a. If an account becomes delinquent, it will be transferred to the Maricopa County Collections Unit for further collection efforts.
- b. The account will be referred to the Debt Setoff program of the Arizona Department of Revenue (Also known as the Tax Intercept Program).

C. Tier 3 – Code DEF2

1. *Eligibility Attributes*

- a. Income is greater than 175%, but less than 225%, of US Federal Poverty Guidelines.

2. *Payment Requirements*

- a. Payment of no less than 25% of filing fee is due at time of filing.
- b. Remaining balance to be paid in three equal consecutive monthly payments beginning 30 days after initial filing date.

- c. A monthly billing statement will be sent to the litigant which provides outstanding balance information with the payment due date.

3. *Delinquent Account Consequences*

- a. If an account becomes delinquent, it will be transferred to a contracted private collection agency, which will charge to the litigant an additional 28% to the outstanding balance.
- b. The account will be referred to the Debt Setoff program of the Arizona Department of Revenue (Also known as the Tax Intercept Program).

D. Tier 4 – Ineligible for deferral/waiver

1. *Eligibility Attributes*

- a. Income is greater than 225%, of US Federal Poverty Guidelines.

2. *Payment Requirements*

- a. Payment of entire fee is due at time of filing.

3. *Delinquent Account Consequences*

- a. Litigant will not be allowed to file without entire fee paid.

III. A. Review of determination of initial application.

If the applicant contests the order of the special commissioner, the applicant may request a review by a judicial officer. After reviewing the application and interviewing the applicant, the Judicial Officer may uphold the order of the special commissioner or modify the ruling as appropriate.

B. Review of determination of supplemental application.

Within twenty days of the date the court denies the supplemental application, the applicant either pays the fees or requests a hearing on the court's final order denying further deferral or waiver. If the applicant requests a hearing, the court shall not enter a consent judgment unless a hearing is held.

IV. Any request for a deferral of a filing fee(s) which is presented at one of the Clerk's Office depositories or by mail will be processed in the same manner as when presented in person. The proper filing fee amount must be submitted with the documents or the filing cannot be accepted per A.R.S. 12-284. If the proper filing fee is not presented with the documents, the Clerk's Office will make one telephone attempt to call the phone number in the request for fee deferment. The filing documents will be held for five (5)

business days to allow the litigant time to provide the required payment. If the required fee is not provided, within the 5 business days, the documents will be mailed to the address on the deferral request form and **WILL NOT** be considered as officially filed.